

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

OLIVIA Y., *et al.*

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, as Governor of the State of Mississippi, *et al.*

DEFENDANTS

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION
TO EXTEND MOTIONS DEADLINE**

Defendants belatedly seek to extend the Case Management Order deadline for dispositive motions by 45 days, from May 1 to June 15, 2006. Such an extension is impractical in light of the July 17, 2006 Pre-trial Conference and August 7, 2006 Trial Date. It does not allow Plaintiffs adequate time to respond to, nor the Court adequate time to address, “the novelty, significance and number of issues” Defendants apparently plan to raise in their “multiple dispositive motions” before the August 7 trial date.

Plaintiffs urge this Court to do nothing that will postpone the trial in this important case addressing Plaintiff children’s basic constitutional rights to safety and well-being while in Defendants’ custody. Plaintiffs, therefore, consent to only a modest extension of the dispositive-motions deadline to May 10, 2006, and propose that Plaintiffs’ responses be due June 10, 2006, with any reply due June 17, 2006.

Defendants’ March 1, 2006 Motion is also ill timed given the impending trial in this matter and Defendants’ long-standing knowledge of the issues in the case. Defendants have had

the current Case Management Order deadlines since this Court's January 17, 2006 Order, and Plaintiffs' expert reports since February 7, 2006.¹ (January 17, 2006 Order at Ex. A). This case has been designated as complex at the request of the parties since the Court's first Case Management Order dated June 17, 2004. (June 17, 2004 Case Management Order at Ex. B). The vast majority of documents produced since then has been Defendants' own documents. Defendants have also been aware that Plaintiffs' case would be "primarily based on reports and testimony of experts" since the parties' May 20, 2004 Rule 26(f) conference, and the June 3, 2004 submission of Plaintiffs' proposed case management order, which proposed the appointment of "court-appointed experts pursuant to Rule 706 of the Rules of Evidence" to review Defendants' records. (June 3, 2004 Proposed Case Management Order at Ex. C). As presented by Plaintiffs, "[j]oint reviews pursuant to Rule 706 would establish class-wide facts efficiently and be less subject to protracted ancillary expert discovery and motion practice;" however, Defendants opposed the proposal.

Having denied Plaintiffs' early attempts to agree on joint experts, Defendants cannot now be allowed to derail this Court's trial date because they have finally realized that this is a complex and important case and they must engage in significant "expert discovery and motion practice" as a result.

Plaintiffs respectfully request that the Court waive the requirement for a separate Memorandum of Law pursuant to Uniform Local Rule 7.2(D).

Plaintiffs respectfully request that the Court grant a limited extension of the dispositive-motions deadline until May 10, 2006, with responses due from Plaintiffs on June 10, 2006, and any reply due June 17, 2006, so that no change to the trial date need be made.

Respectfully submitted, this the 9th day of March, 2006.

¹ Defendants' Motion erroneously gives this date as February 17, 2006.

/s Melody McAnally

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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2006, I electronically filed the foregoing and all enclosures with the Clerk of the Court using the ECF system, which sent notification of such filing to the following:

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